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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

MAR 18 1991

Federal Communications Commission  
Office of the Secretary

In re Application of )

ASTROLINE COMMUNICATIONS COMPANY )  
LIMITED PARTNERSHIP, DEBTOR-IN- )  
POSSESSION )

File No. BRCT-881201LG

For Renewal of License of )  
Station WHCT-TV, Hartford, Connecticut )

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MAR 19 1991

TO: Roy J. Stewart, Chief  
Mass Media Bureau

VIDEO SERVICES

STATEMENT FOR THE RECORD

1. Shurberg Broadcasting of Hartford ("SBH") hereby submits this Statement for the Record with respect to the above-captioned application of Astroline Communications Company Limited Partnership, Debtor-in-Possession.

2. As the Commission well knows, SBH filed an application for a construction permit for a new station on Channel 18, Hartford, Connecticut in December, 1983. SBH's efforts to secure immediate consideration of that application were unsuccessful, and there then ensued seven years of tortuous litigation in which SBH's position was initially vindicated by the United States Court of Appeals for the District of Columbia Circuit, Shurberg Broadcasting of Hartford, Inc. v. FCC, 876 F.2d 902 (D.C. Cir. 1989), but ultimately rejected by a 5-4 vote of the United States Supreme Court, Metro Broadcasting, Inc. v. FCC, 110 S.Ct. 2997 (1990).

3. SBH's application has now been accepted for filing. Broadcast Application, Report No. 14926, Mimeo No. 11679, released February 8, 1991. It is therefore clear that SBH will,

at long last, be given the opportunity it has sought for more than seven years, i.e., to compete in a comparative proceeding for authority to operate a television station on Channel 18 in Hartford.

4. Astroline's renewal application was not listed in the above-cited public notice, and SBH understands from the Commission's rules that petitions to deny Astroline's application were due to be filed no later than March 1, 1989. See Sections 73.3584(a) and 73.3516 of the Commission's Rules. <sup>1/</sup> Moreover, SBH also understands from the Commission's rules that matters warranting addition of issues in the comparative hearing are to be addressed in the first instance to the presiding administrative law judge after hearing designation, and not in pre-designation "issue" pleadings. <sup>2/</sup> In light of these rules, SBH is not seeking in this pre-designation phase of the

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<sup>1/</sup> In this regard, SBH understands that counsel for Astroline has testified that petitions to deny Astroline's renewal application may permissibly be filed on or before March 18, 1991. SBH believes that to be an incorrect reading of the Commission's rules and SBH does not believe that the Commission would view itself to be obligated to accept and consider any such petition simply because of the apparently erroneous opinion of Astroline's counsel.

For the Commission's information, the testimony of Astroline's counsel was given during a February, 1991 hearing before a bankruptcy court in Hartford. The subject of the hearing was a motion to convert that proceeding to a bankruptcy proceeding under Chapter 7 of the bankruptcy laws, a conversion which would normally result in liquidation of Astroline, the debtor in bankruptcy. The motion to convert the proceeding was granted, although that conversion has in effect been temporarily stayed by the bankruptcy court.

<sup>2/</sup> See Processing of Contested Broadcast Applications, 72 F.C.C.2d 202, 45 R.R.2d 1220 (1979).

proceeding to raise any issues against Astroline, since any such effort may -- and, under the Commission's rules, should more appropriately -- be undertaken after designation.

5. SBH's forbearance in this regard should not be interpreted as any indication that SBH believes Astroline to be blemish-free. To the contrary, SBH already has pending a petition to deny an earlier Astroline application in which SBH has demonstrated that Astroline has engaged in unauthorized transfer of control and misrepresentation and/or lack of candor before the Commission. <sup>3/</sup> Moreover, various other matters have come to SBH's attention in the last two years which, in SBH's view, may appropriately be presented to the presiding administrative law judge in a petition to enlarge issues concerning Astroline's qualifications to be a Commission licensee. <sup>4/</sup> The purpose of the instant Statement for the

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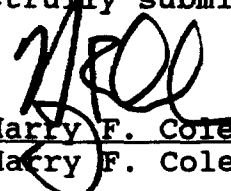
<sup>3/</sup> SBH's allegations were presented to the Commission in a petition to deny Astroline's application (File No. BALCT-881122KH) for consent to transfer of control of Astroline's license. That application was filed on November 22, 1988, and SBH's petition was filed immediately thereafter, on December 7, 1988. To the best of SBH's knowledge, no action on SBH's petition has been taken. Moreover, SBH does not believe that any action has been taken on Astroline's application -- while Astroline alleged, in opposition to SBH's petition, that its counsel had been informally advised of the grant of the application, SBH has seen no independent confirmation of any such grant issued by the Commission, and SBH has received no disposition, written or otherwise, of the issues raised in its petition. Because of this, SBH believes those issues still to be pending.

<sup>4/</sup> For example, information obtained by SBH from an on-the-record hearing in Astroline's bankruptcy proceeding indicates that the question of unauthorized transfer of control previously raised by SBH, see Footnote 3, supra, may be the mere tip of the iceberg. Statements made on the record during a December 1, 1988 hearing in

(continued...)

Record is simply to put the Commission and Astroline on notice that SBH's election not to file an extraordinary pre-designation issue-related pleading at this time should not be interpreted as an indication that SBH will not seek to raise any and all issues against Astroline at a later, more appropriate time consistent with the Commission's rules.

Respectfully submitted,

  
/s/ Harry F. Cole  
Harry F. Cole

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March 18, 1991

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<sup>4/</sup>(...continued)  
Astroline's bankruptcy proceeding indicate that formal discovery (which included sworn deposition testimony) in that case has revealed that Astroline's operations have been controlled not by its supposed general partner, but by its "limited" partners. Those statements include, inter alia, claims of detailed financial control of Astroline by its "limited" partners since Astroline began operation. Such matters are clearly appropriate for consideration in the context of a petition to enlarge issues.

DECLARATION

I hereby certify that, on this 18th day of March, 1991,  
I caused copies of the foregoing "Statement for the Record" to be  
placed in the U.S. mail, first class postage prepaid, addressed to  
the following:

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/s/ Elizabeth A. Holbrook  
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